

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Julia Pagnamenta	Team: Squad #2	CCRB Case #: 202003930	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/16/2020 8:50 AM	Location of Incident: 9 Delancey Street	Precinct: 05	18 Mo. SOL 11/16/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 06/04/2020 12:10 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 06/04/2020 12:10 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			005 PCT
2. POM Edwin Duran	18925	963018	005 PCT
3. POM Lamont Kirkland	15454	937911	005 PCT
4. PO Nenad Savic	14725	957136	005 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Seeyeung Moy	12018	956957	005 PCT
2. POM Christophe Vedutis	27030	965597	005 PCT
3. SGT Emmanuel Marcelino	05095	951964	005 PCT
4. PO Kwabena Fraser	23820	963034	005 PCT
5. PO Jeffrey Williams	22854	962876	005 PCT
6. PO Tyra Frazier	12662	950442	005 PCT
7. PO Kim Li	13537	949207	005 PCT
8. PO Annie Lin	22626	968579	005 PCT
9. PO Oscar Li	25811	957770	005 PCT
10. PO Chester Chung	00997	948783	005 PCT
11. PO Chunho Lai	12520	960780	005 PCT
12. PO Chiho Chan	09204	965975	MED DIV
13. PO Andrew Buck	15437	927983	005 PCT
14. PO Kamal Maqsood	07418	960865	005 PCT
15. PO Jarrell Stevens	24536	953449	005 PCT
16. PO Brendan Giardino	11681	965730	005 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Lamont Kirkland	Discourtesy: Police Officer Lamont Kirkland spoke discourteously to § 87(2)(b)	
B.POM Edwin Duran	Discourtesy: Police Officer Edwin Duran spoke discourteously to § 87(2)(b)	
C.POM Lamont Kirkland	Force: Police Officer Lamont Kirkland used a Taser against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
D.POM Lamont Kirkland	Force: Police Officer Lamont Kirkland used a Taser against § 87(2)(b)	
E. Officers	Force: Officers used physical force against § 87(2)(b)	
F.PO Nenad Savic	Discourtesy: Police Officer Nenad Savic spoke discourteously to § 87(2)(b)	
G.PO Nenad Savic	Off. Language: Police Officer Nenad Savic made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	

## Case Summary

On June 4<sup>th</sup>, 2020, § 87(2)(b) filed the following complaint via the CCRB's online processing system on the behalf of an individual subsequently identified via the investigation as § 87(2)(b). This case was initially assigned to Investigator Santosh Prakash. It was reassigned to Investigator Julia Pagnamenta on November 29<sup>th</sup>, 2021.

At approximately 8:50 a.m. on May 16<sup>th</sup>, 2020, Police Officer Edwin Duran and Police Officer Lamont Kirkland of the 5<sup>th</sup> Precinct were on routine patrol when they observed § 87(2)(b) holding an item that appeared to be a crowbar chasing after an unknown male individual at the intersection of Chrystie Street and Delancey Street in Manhattan. Police Officer Duran and Police Officer Kirkland approached § 87(2)(b) and Police Officer Kirkland repeatedly instructed him to drop the crowbar. Police Officer Duran and Police Officer Kirkland had their Tasers drawn and pointed them towards § 87(2)(b). Police Officer Kirkland then grabbed the crowbar from § 87(2)(b)'s hand and told him, "Give me that shit man," while Police Officer Duran asked him, "What the fuck is wrong with you?" (**Allegations A and B: Discourtesy: Word**, § 87(2)(g)). § 87(2)(b) then told Police Officer Kirkland, "Fuck you" and not to "touch" him. Police Officer Kirkland replied, "You had a fucking stick in your hand." When § 87(2)(b) asked Police Officer Kirkland why he had a Taser in his hand, he repeated, "You had a fucking stick in your hand" (**within Allegation A**). § 87(2)(b) walked towards Police Officer Duran while shouting, "Shoot already." Police Officer Kirkland deployed his Taser against § 87(2)(b) and ran two cycles (**Allegations C and D: Force: Non-lethal restraining device**, § 87(2)(g)). § 87(2)(b) continued walking towards Police Officer Duran, who stated, "Don't keep fucking playing with me, man" (**within Allegation B**).

Several additional officers from the 5<sup>th</sup> Precinct arrived on scene and took § 87(2)(b) to the ground and handcuffed him (**Allegation E: Physical Force**, § 87(2)(g)). As the police officers attempted to restrain § 87(2)(b) Police Officer Duran asked him, "What the fuck is wrong with you, man?" (**within Allegation A**), and Police Officer Nenad Savic of the 5<sup>th</sup> Precinct ordered him to "Stop fucking resisting." After the police officers handcuffed § 87(2)(b) Police Officer Savic asked him, "The fuck you are doing, man?" and called him a "Fucking dick" and "piece of shit" (**Allegation F: Discourtesy: Word**, § 87(2)(g)). (**Allegation G: Offensive Language: Gender**, § 87(2)(g)). § 87(2)(b) was then removed to § 87(2)(b) Hospital.

Body-worn camera (BWC) footage of the incident was obtained from the BWCs of Police Officer Kwabena Fraser, Police Officer Jeffrey Williams, Police Officer Tyra Frazier, Police Officer Kim Li, Police Officer Annje Lin, Police Officer Oscar Li, Police Officer Chester Chung, Police Officer Chunho Lai, Police Officer Chiho Chan, Police Officer Fu Chen, Police Officer Christopher Vedutis, Police Officer Seeyeung Moy, Police Officer Brendan Giardino, Police Officer Jarrell Stevens, Police Officer Kamal Maqsood, Police Officer Andrew Buck, Police Officer Kirkland, Police Officer Duran, and Police Officer Savic and are attached to IA#s 37, 57, 110, and 111 (**Board Reviews 01, 02, 03, and 04**), and summarized in IA #94 (**Board Review 05**). The investigation also obtained a video recorded by § 87(2)(b) (**Board Review 06**).

## Findings and Recommendations

**Allegation (A) Police Officer Lamont Kirkland spoke discourteously to § 87(2)(b)**

**Allegation (B) Police Officer Edwin Duran spoke discourteously to § 87(2)(b)**

**Allegation (C) Police Officer Lamont Kirkland used a Taser against § 87(2)(b)**

**Allegation (D) Police Officer Lamont Kirkland used a Taser against § 87(2)(b)**

§ 87(2)(b) was interviewed by telephone on June 16<sup>th</sup>, 2020 (**Board Review 07**). The

investigation was unable to obtain a statement from § 87(2)(b) Police Officer Kirkland was interviewed at the CCRB on April 5<sup>th</sup>, 2021 (**Board Review 08**). Police Officer Duran was interviewed at the CCRB on August 4<sup>th</sup>, 2021 (**Board Review 09**). Police Officer Savic was interviewed at the CCRB on January 13<sup>th</sup>, 2022 (**Board Review 10**).

§ 87(2)(b) stated that she first became aware of the incident with § 87(2)(b) after hearing a “commotion” from her § 87(2)(b) apartment on § 87(2)(b) Street and then saw § 87(2)(b) surrounded by police officers. She did not see how the incident began and did not see any police officers discharge their Tasers.

The AIDED report prepared by Police Officer Duran for § 87(2)(b) (**Board Review 11**) notes that as the officers were approaching Delancey Street and Bowery, they observed § 87(2)(b) chasing and swinging a black crowbar at an unknown male, who ran off on Chrystie Street. § 87(2)(b) was given multiple commands to drop the weapon. The weapon was removed from § 87(2)(b) but he then became aggressive towards the officers, at which point he was tased once in the back. The Taser was ineffective because the probes did not break the skin. § 87(2)(b) was taken down to the ground and cuffed then removed to § 87(2)(b) by EMS for further evaluation.

As Police Officer Duran’s BWC (**Board Review 03**) begins, Police Officer Duran is running with his Taser in his hand towards § 87(2)(b)’s back. § 87(2)(b) who appears to be a large male, is walking down the vehicular roadway with a long metal object in his left hand. 20 seconds into the video, § 87(2)(b) steps off the street and onto the sidewalk as both Police Officer Duran and Police Officer Kirkland point their Tasers towards him. § 87(2)(b) does not appear to turn towards or acknowledge the presence of the officers and continues walking towards a group of individuals on the sidewalk, who quickly move away as he walks towards them. As the audio begins at around 30 seconds into the video, Police Officer Kirkland orders him to put down the “crowbar.”

Police Officer Kirkland’s BWC video (**Board Review 02**) starts as Police Officer Kirkland has his Taser pointed towards § 87(2)(b) and tells him, “Yo, put your crowbar down now.” § 87(2)(b) does not respond or appear to acknowledge the presence of the officers and continues walking with the object in his hand. At 00:12, as Police Officer Kirkland walks behind § 87(2)(b) with his Taser still pointed, he says, “Give me that shit, man,” and grabs the long metal object from § 87(2)(b)’s hand. Police Officer Duran is then heard asking, “What the fuck is wrong with you?” When Police Officer Kirkland orders him repeatedly to go “up against the wall,” § 87(2)(b) tells him, “Don’t touch me,” and “Fuck you.” Police Officer Kirkland replies, “You had a fucking stick in your hand.” § 87(2)(b) then asks Police Officer Kirkland why he has a Taser in his hand, and the officer repeats, “You had a fucking stick in your hand.” As Police Officer Kirkland repeatedly tells § 87(2)(b) to go “up against the wall,” § 87(2)(b) turns away from Police Officer Kirkland and starts walking away, towards Police Officer Duran. Police Officer Duran backs away from § 87(2)(b) with his Taser in his hand and § 87(2)(b) asks him, “Fuck you, what you want?” Police Officer Duran tells § 87(2)(b) he is going to the hospital as he points his Taser towards him. § 87(2)(b) raises his voice and appears to step quickly towards Police Officer Duran (This sequence can be seen from the angle of Police Officer Duran’s BWC starting at the 1:24 mark (**Board Review 03**)).

At 00:46 into Police Officer Kirkland’s video, Police Officer Kirkland shouts, “Yo, get down now,” as he follows § 87(2)(b) from behind with his Taser pointed towards his back, and then warns, “Taser, Taser” twice before discharging his Taser. At that point, Police Officer Duran, who has his Taser pointed in front of him in § 87(2)(b)’s direction, tells him, “Don’t keep fucking playing with me, man.” § 87(2)(b) who does not appear affected by Police Officer Kirkland previously discharged Taser, continues walking towards Police Officer Duran, and tells him not to point the

Taser at him, and says, “What I do? Somebody fucking sitting there, fucking attacking me.” At 1:11, Police Officer Kirkland repeatedly tells § 87(2)(b) who keeps on walking towards Police Officer Duran, “Get down. Get down.” § 87(2)(b) eventually replies, “I ain’t doing shit” and tells him to call his “supervisor.” At 2:07, as a group of police officers are seen approaching § 87(2)(b) Police Officer Kirkland’s Taser is still drawn, and the two Taser leads are seen hanging from it.

Police Officer Kirkland and Police Officer Duran’s statements were consistent in that both stated that they first observed § 87(2)(b) as he was running after an unidentified male with what they believed was a “crowbar” in the middle of Delancey Street. Police Officer Duran stated that when they first exited their vehicle, the unidentified individual had already fled the scene, and that when they approached § 87(2)(b) he had been “swinging” the crowbar in his hand. Police Officer Kirkland further stated that they approached § 87(2)(b) from opposite directions, and that they both repeatedly told him to drop the crowbar. § 87(2)(b) however, refused to drop the object. Police Officer Kirkland decided then to draw his Taser and point it at § 87(2)(b) Police Officer Duran stated that Police Officer Kirkland then “grabbed” the crowbar from § 87(2)(b)’s hands. Police Officer Duran did not recall if he or any of the other police officers had used profanities during the incident.

Police Officer Kirkland stated that he decided to draw his Taser and point it at § 87(2)(b) from a rear-sideways angle after he refused repeated orders to drop the rod in his hand and he believed that § 87(2)(b) posed a “clear physical threat.” After pointing his Taser, Police Officer Kirkland continued to order § 87(2)(b) to drop the object he was holding, but that § 87(2)(b) did not drop it. § 87(2)(b) then began to walk towards Police Officer Duran. At this point, fearing that Police Officer Duran was in imminent danger, Police Officer Kirkland, standing directly behind § 87(2)(b) discharged his Taser prongs, shouting, “Taser, Taser!” He did so to prevent § 87(2)(b) from advancing toward and possibly attacking Police Officer Duran. However, only one of the Taser prongs appeared to successfully attach to § 87(2)(b). The second prong struck § 87(2)(b)’s leg and fell off without attaching and § 87(2)(b) did not appear to be visibly affected by the Taser discharge. When asked if he then discharged his Taser a second time, Police Officer Kirkland initially said no, since both prongs had been deployed. When asked if he then cycled his taser again, Police Officer Kirkland stated he was not sure.

Police Officer Duran stated that after Police Officer Kirkland removed the crowbar from § 87(2)(b)’s hand, § 87(2)(b) began walking toward Police Officer Duran. Police Officer Duran tried to maintain his distance from § 87(2)(b) and, “to the best of [his] knowledge,” asked § 87(2)(b) to “stop advancing.” Police Officer felt threatened by § 87(2)(b) as he approached him since he had just seen § 87(2)(b) chase somebody else with a weapon down the street. When § 87(2)(b) reached approximately three arms-lengths from Police Officer Duran, Police Officer Kirkland tased § 87(2)(b) in the back. He observed that Police Officer Kirkland attempted to tase § 87(2)(b) only once and that it had “no effect whatsoever.” After Police Officer Kirkland tased § 87(2)(b) he became “even more upset” and ended up “ripping” the probe out. Police Officer Duran pointed his Taser at § 87(2)(b) but did not deploy it because § 87(2)(b) had on “layers of clothing” and had been able to “rip off” the prong from Police Officer Kirkland’s Taser. Police Officer Duran believed using his Taser against § 87(2)(b) was “not going to be effective.”

According to the X-26 Taser Report (**Board Review 12**), on May 16<sup>th</sup>, 2020, Police Officer Kirkland’s Taser was “triggered” twice for five seconds each at 8:52:08 and at 8:52:13. According to the TRI Report (**Board Review 13**) prepared for this incident, Police Officer Kirkland discharged his Taser from approximately 10 feet away because § 87(2)(b) identified as an “EDP,” was in “possession of crowbar” and became “aggressive towards officers.” The TRI further

noted that § 87(2)(b) displayed “continued resistance” while the Taser was in use, and was ultimately not “effective,” as “one or both probes missed subject.” The TRI’s narrative indicated that § 87(2)(b) became “irate, displaying active aggression when confronted by the officers,” and that Police Officer Kirkland “deployed CEW #§ 87(2)(b) Cartridge #§ 87(2)(b) F. One probe made contact with the subject’s left pant leg, but probe did not go through clothing to skin. The second probe missed the subject completely.” The TRI lists § 87(2)(b) as a 6’2” tall, 300-pound, 43-year-old black male (This appears to be consistent with is appearance in the BWC footage).

According to DCT Case No. 2015-15012, officers are to behave professionally and respectfully towards members of the public and avoid the use of discourteous language; however, officers’ use of profanities during stressful street encounters do not constitute misconduct (**Board Review 14**).

NYPD Patrol Guide Procedure 221-01 (Board Review 15) indicates that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or to otherwise protect life. In determining whether the use of force is reasonable, members of the service should consider the following: actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, members of service and/or bystanders, size, age, and condition of the subject in comparison to the MOS, and if the subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

NYPD Patrol Guide, Procedure 221-08 (Board Review 16) states that conducted Energy Weapons (CEWs) should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons present. It defines *active resistance* as “physically evasive movements to defeat [an officer’s] attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody.” It further defines *active aggression* as a “threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.” It also encourages officers to point their Tasers at a subject in order to attempt to achieve voluntary compliance. EMS must be requested for a person against whom a CEW has been used and they are to be removed to be examined at a medical facility.

When Police Officer Kirkland and Police Officer Duran first approached § 87(2)(b) he was walking down the roadway of the street holding a crowbar in his hand. He did not respond to or even appear to acknowledge the presence of the officers as both police officers pointed their Tasers towards him and gave him instructions. At this point in the incident, Police Officer Kirkland repeatedly ordered § 87(2)(b) to put down the crowbar, but he refused to do so. Therefore, given that the two police officers stated that they approached § 87(2)(b) within seconds of observing him chase another individual with a crowbar, at the point where Police Officer Kirkland approached § 87(2)(b) and grabbed the crowbar from his hand, their subsequent verbal exchange with § 87(2)(b) could be reasonably considered a “stressful street encounter.” § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

The BWC footage shows § 87(2)(b) an approximately 6’2” tall 300-pound male, consistently refusing to follow Police Officer Kirkland’s repeated orders to go “up against the wall” and “get down” after the police officer grabbed the crowbar from his hand. § 87(2)(b) then started walking towards Police Officer Duran, shortly after the two police officers had seen him chasing another individual in the street with a crowbar and continued approaching him even after Police Officer Duran pointed his Taser at him. In light of § 87(2)(b)’s demeanor when the police officers first

approached him and his refusal to comply with their repeated orders—orders that were intended to ensure the officers’ safety—§ 87(2)(g)

Moreover, given that the first Taser deployment was evidently not effective, as § 87(2)(b) continued walking towards Police Officer Duran, § 87(2)(g)

(Given the fact that officers were required to remove § 87(2)(b) to the hospital following their use of the Taser, as per P.G. 221-08, his subsequent removal to the hospital was subsumed into this allegation and was not pleaded separately).

**Allegation E: Officers used physical force against § 87(2)(b)**

§ 87(2)(b) stated she looked out of her § 87(2)(b) apartment on § 87(2)(b) Street immediately after hearing a “commotion” outside and saw approximately 10 police officers surrounding § 87(2)(b). § 87(2)(b) stood upright and “perfectly still” with his arms at his sides, yelling, “Why did you taser me?” Without issuing any verbal commands, all 10 officers then jointly tackled § 87(2)(b) to the ground, face-down, in a “disorganized scrum.” § 87(2)(b) further stated that the “struggle” consisted mostly of “wrestling, grabbing, pulling, and shoving.”

Police Officer Kirkland stated that after back-up was called, upwards of 10 responding officers arrived after he discharged his Taser. All of the officers proceeded to jointly take § 87(2)(b) to the ground and handcuff him. Police Officer Kirkland did not recall exactly what § 87(2)(b) was doing once he was on the ground or how he reacted to being handcuffed but stated that it took “some time” to get him restrained.

Police Officer Duran stated that approximately 16 police officers were involved in restraining § 87(2)(b). After police officers grabbed § 87(2)(b)’s legs from underneath him, he went down to the ground. The officers took § 87(2)(b) down to the ground because it was “easier” to handcuff someone of his “size” on the ground than standing up. At some point in the struggle to handcuff § 87(2)(b) on the ground, his body ended up on top of one of Police Officer Duran’s legs. Police Officer Duran did not recall if § 87(2)(b) had been moving around when he was on the ground but stated that he did not believe § 87(2)(b) had willingly given the police officers his hands.

Police Officer Savic stated that when he arrived on scene, approximately eight to ten police officers were on the floor “trying to restrain” § 87(2)(b) and place him into handcuffs. Upon arriving, Police Officer Savic went down on his knees and tried to place § 87(2)(b) in handcuffs and explained that the officers had to use two handcuffs on him. Police Officer Savic described § 87(2)(b) as “actively resisting” and stated that he was not “being cooperative by putting his hands behind his back.” § 87(2)(b) was kicking his legs and trying to grab Police Officer Duran by his leg. At some point during the struggle Police Officer Savic’s finger got caught in the handcuff and Police Officer Duran sustained “scrapes” on his forearm and elbow.

The TRI Report (**Board Review 13**) prepared for this incident indicated that officers were involved in a forcible take down of § 87(2)(b) in order to “overcome resistance or aggression.” The Report further noted that § 87(2)(b) was approximately 6’2” and 300 pounds. The TRI’s narrative indicated that a forceable take down was used to gain compliance after Police Officer Kirkland deployed his Taser, and that while attempting to cuff him, § 87(2)(b) continued to resist from the ground. Police Officer Kirkland then used his expandable baton, “not as an impact weapon, but as a tool to apply pressure” as a way to “aid in cuffing” § 87(2)(b) who was then removed to § 87(2)(b) Hospital for a psych exam.



At 1:11 in Police Officer Kirkland's BWC (**Board Review 02**), as Police Officer Kirkland repeatedly orders § 87(2)(b) to "get down," § 87(2)(b) replies, "I ain't going nowhere." Starting at 1:38, Police Officer Kirkland warns § 87(2)(b) repeatedly, "Either get down or we are going to force you down." § 87(2)(b) replies, "I ain't doing shit." At 2:07, a group of approximately three additional police officers approach § 87(2)(b) and appear to take him down to the ground in approximately five seconds, where he lays on his stomach. At 2:21, § 87(2)(b) can be heard saying, "Get off of me man," as approximately seven police officers surround him. At 2:42, Police Officer Kirkland's baton makes contact with § 87(2)(b)'s left shoulder blade area for approximately 20 seconds, though it doesn't appear to have been used as an impact weapon. Police officers can then be heard shouting, "Stop resisting." At 3:07, Police Officer Duran says, "Bro, he's on my leg," as approximately five police officers kneel around § 87(2)(b) and appear to struggle placing him into handcuffs. At 3:26, police officers appear to separate Police Officer Duran from § 87(2)(b) as § 87(2)(b) says, "Get the fuck off of me." § 87(2)(b) is in handcuffs at this point.

NYPD Patrol Guide section 221-01 (Board Review 15) indicates that force may be used when it is reasonable to ensure the safety of officers or to place or to place a person in custody. In all circumstances, an application of force must be reasonable under the circumstances. The Patrol Guide goes on to state that the reasonableness of the use of force is based upon the totality of the circumstances known by the MOS at the time of the use of force.

The BWC footage shows that approximately five to seven police officers approached § 87(2)(b) and took him to the ground after Police Officer Kirkland ordered him to "get down" for over a minute after he and Police Officer Duran first encountered him on the street after they observed him chase another individual with a crowbar. Moreover, in light of the fact that at no point during their initial interaction did the BWC videos show § 87(2)(b) cooperating with Police Officer Kirkland or Police Officer Duran's repeated verbal orders, and that as indicated by the supporting police documentation, he became "irate" and "display[ed] active aggression" when "confronted" by the two police officers, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation F: Police Officer Nenad Savic spoke discourteously to § 87(2)(b)**

**Allegation G: Police Officer Nenad Savic made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)**

At runtime 00:29 in Police Officer Savic's BWC (**Board Review 04**), he runs towards approximately five police officers who are kneeling on the ground around § 87(2)(b) and appears to grab one of § 87(2)(b)'s legs. At 1:07, Police Officer Savic tells § 87(2)(b) to "Stop resisting," as police officers attempt to handcuff him. At 1:14, Police Officer Savic tells § 87(2)(b) twice to "Stop fucking resisting." At 1:40, after § 87(2)(b) has been successfully handcuffed on the ground, police officers push § 87(2)(b) off Police Officer Duran's leg, and Police Officer Savic helps Police Officer Duran up. At 1:50, Police Officer Savic tells § 87(2)(b) "The fuck man." At 2:06, after police officers lift a handcuffed § 87(2)(b) to his knees, Police Officer Savic says over the police radio that the "EDP" is in custody, he then asks § 87(2)(b) "What the fuck you doing man? What's wrong with you?" § 87(2)(b) replies, "What do you mean what I'm doing?" and tells him he was chased with a "stick." At 2:09, Police Officer Savic speaks over § 87(2)(b) and says, "Fucking dick" and a few seconds later, appears to say, "Piece of shit."

Police Officer Savic stated that it had not been "intentional" when he told § 87(2)(b) to "stop



fucking resisting” and that he had said it in the “heat of the moment” because it took all of the police officers’ “strength to try to restrain” § 87(2)(b) because he was a “very big guy.”

Police Officer Savic further stated he had used “New York City slang” when calling § 87(2)(b) a “fucking dick” in the “heat of the moment,” as § 87(2)(b) had been “actively resisting” and hurting one of the officers. When the Investigator asked Police Officer Savic why he had said, “piece of shit,” he replied that the moment was such “a blur” that he did not recall. Police Officer Savic explained that “everything” went into “tunnel vision” because he did not want to hurt § 87(2)(b) or the officers at that moment, and that it had been “very exhausting” to try and restrain an actively resisting individual.

According to Patrol Guide Procedure 200-02, the NYPD pledges to “value human life, respect the dignity of each individual and render our services with courtesy and respect” (**Board Review 17**).

According to DCT Case No. 2015-15012, officers are to behave professionally and respectfully towards members of the public and avoid the use of discourteous language; however, officers’ use of profanities during stressful street encounters do not constitute misconduct. These statements, however, may not serve no legitimate purpose but to belittle a civilian (**Board Review 14**).

As discussed under **Allegations A and B**, the police officers’ initial interaction with § 87(2)(b) constituted a “stressful street encounter,” § 87(2)(g). § 87(2)(g) the police officers had tackled him down to the ground and were attempting to handcuff him at that moment. However, once § 87(2)(b) was placed into handcuffs, the officers had gained control over the incident.

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) has been a party (**Board Review 18**).
- This is the first complaint to which § 87(2)(b) has been a party (**Board Review 19**).
- Police Officer Edwin Duran has been a member of service for five years and has been a subject in two other CCRB complaints and three other allegations, none of which have been substantiated. § 87(2)(g)
- Police Officer Lamont Kirkland has been a member of service for 16 years and has been a subject in eight other CCRB complaints and 13 other allegations, one of which was substantiated:
  - In case # 201508539, a refusal to provide name and shield number allegation was substantiated against Police Officer Kirkland. The NYPD imposed formalized training.
  - § 87(2)(g)
- Police Officer Nenad Savic has been a member of service for seven years and this is his first complaint.

#### **Mediation, Civil and Criminal Histories**

- This was case was unsuitable for mediation.
- § 87(2)(b)
- According to the New York City Office of the Comptroller, no Notice of Claim had been filed regarding this incident as of January 21<sup>st</sup>, 2022 (**Board Review 22**).

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Squad No.: 2

Investigator: Inv. Pagnamenta Julia Pagnamenta 01/21/2022  
Signature Print Title & Name Date

Squad Leader: Alexander Opoku-Agyemang IM Opoku-Agyemang 1/21/2022  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date